

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
AMENDED INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-Publication of Notice)

Amend Section 364
Title 14, California Code of Regulations
Re: Elk

I. Date of Initial Statement: January 14, 2002

Date of Amended Initial Statement: February 22, 2002

II. Dates and Locations of Scheduled Hearings:

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| (a) Notice Hearing: | Date: February 9, 2002
Location: Sacramento, California |
| (b) Discussion Hearing: | Date: March 8, 2002
Location: San Diego, California |
| (c) Discussion Hearing: | Date: April 5, 2002
Location: Long Beach, California |
| (d) Adoption Hearing: | Date: April 25, 2002
Location: Sacramento, California |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

1. Tag Quotas

Existing regulations specify elk license tag quotas for each hunt. It is periodically necessary to adjust quotas in response to dynamic environmental and biological conditions. Such adjustments are necessary to achieve/maintain desired management goals and objectives and to provide for a quality hunting experience consistent with the population status of each elk herd. The proposal includes the following specific changes in license tag quotas:

Increase the Shasta quota (note: changes proposed elsewhere in this Section will rename this as the Northeastern California Rocky Mountain

Elk Hunt) from one bull and four antlerless tags to five either-sex (archery only) and 10 either-sex (general) tags.

Increase the Marble Mountains quota from 30 either-sex tags to 40 either-sex tags.

Change the Big Lagoon quota from 25 either-sex tags to 12 bull tags and 13 antlerless tags.

Change the Klamath quota from 30 either-sex tags to 15 bull tags and 15 antlerless tags.

Provide five either-sex tags designated archery only for the Owens Valley, and reduce the total bull tag quota for the Tinemaha zone from ten to six bull tags.

2. Expand the Shasta Boundaries and Rename as Northeastern California Rocky Mountain Elk Hunt, with Archery Only and General seasons

Existing regulations specify boundaries for the Shasta Rocky Mountain Elk Hunt. The proposed change significantly expands hunt boundaries and renames this as the Northeastern California Rocky Mountain Elk Hunt. Elk range in northeastern California has expanded during the last 20 years. Up to 750 animals inhabit the proposed hunt area in northeastern California. The proposal expands the current hunt zone from Shasta County to include portions of Modoc, Lassen and eastern Siskiyou counties, so that additional recreational opportunities can be provided consistent with the expansion of elk populations in and near the current hunt area. The hunt is renamed the Northeastern California Rocky Mountain Elk Hunt to reflect the major expansion of hunt zone boundaries.

Existing regulations do not provide an exclusive opportunity for archers to hunt elk. Based on public input, archers desire a separate area or hunt period to hunt elk. The proposed change establishes an archery only season and a general season for a new and significantly expanded zone in northeastern California.

3. Marble Mountains Boundary Expansion

Existing regulations specify boundaries for the Marble Mountains Roosevelt Elk Hunt. The proposed amendment expands the current hunt boundary into portions of Humboldt, Trinity and Shasta counties. The proposed change is necessary so that additional recreational opportunities can be provided consistent with the expansion of Roosevelt elk within and adjacent to the hunt area.

4. Big Lagoon Boundary Expansion

Existing regulations specify boundaries for the Big Lagoon Roosevelt Elk Hunt. The proposed change expands the boundary to include another portion of Humboldt County. This hunt occurs on land owned primarily by the Simpson Timber Company (Simpson). Simpson has requested that this boundary be expanded to allow hunters additional opportunity to hunt elk on their lands. The proposed change expands the hunt boundary in Humboldt County so that additional recreational opportunities can be provided consistent with the expansion of Roosevelt elk within and adjacent to the hunt area.

5. Owens Valley Archery Only Hunt Period

Existing regulations specify area boundaries, season dates, bag and possession limits and tag quotas for elk hunts within the Owens Valley. Although existing regulations allow elk to be taken using specified archery equipment, such regulations do not provide an exclusive opportunity for archers to hunt elk. Based on public input, archers desire a separate area or hunt period to hunt elk. Based on deer tag application rates, the Department anticipates that archers comprise approximately three percent of the applicants for elk license tags. Under the proposed regulation changes, in 2002 the Department anticipates issuing a total of approximately 300 elk license tags through the public drawing, with 10 tags designated archery only. The proposed change establishes a nine day, archery only hunt period for existing zones in the Owens Valley beginning on the second Saturday in August. Under the proposed change, archery only tags are not valid during any other period, and no other tags are valid during the archery only period for the Owens Valley.

6. Tag Application and Distribution Procedures, Tagging and Reporting Requirements

Existing regulations specify elk tag application and distribution procedures and indicate tagging and reporting requirements. The proposed change establishes new Subsection 708(d) and removes the tag application and distribution procedures and tagging and reporting requirements from existing regulations by placing them in that new Subsection. Currently, proposals are under consideration to implement an Automated License Data System (ALDS), and a possible change in tag distribution methods from the current draw-by-choice method to a preference-based point system. If implementation of an ALDS or

preference-based point system occurs, it will be necessary to adapt administrative and procedural regulations related to elk tags immediately. The proposed change will allow modifications to the administrative procedures to occur outside of the normal Mammal regulation setting process and time lines.

The current Mammal regulation setting process is structured such that time lines would not be adaptable to these needs. The proposed change deletes Section 364(l), (q), (r), and portions of (o) (1-4), and moves their contents to Subsection 708(d).

Existing regulations specify a \$6.50 nonrefundable application fee and an \$277.50 resident license tag fee for hunting elk. Section 713 of the Fish and Game Code requires that these fees be adjusted annually according to the cost of living index. This proposal increases the nonrefundable application fee to \$6.75 and the elk license tag fee to \$286.75, as required by Section 713 of the Fish and Game Code.

7. Editorial Changes

Existing regulations contain references to the current calendar year which must be updated for accuracy. The proposal updates the year from 2001 to 2002 and makes other minor editorial changes. Such changes in application materials and/or season dates are necessary to improve clarity and consistency of the regulations.

Also, reference to trespassing is deleted from this Section to reduce redundancy, since trespassing already is prohibited by Fish and Game Code sections 2016 and 2017.

8. Distribution of Tags for the 2002 Fort Hunter Liggett Tule Elk Hunt

Successful applicants were unable to participate in the 2001 Fort Hunter Liggett Tule Elk Hunt when it was cancelled because of heightened concerns regarding national security. Prior to the Notice Hearing Date, the Department and the Fish and Game Commission received public recommendations regarding the distribution of tags for the 2002 Fort Hunter Liggett Tule Elk Hunt. Such written recommendations have consistently requested that tags for the 2002 Fort Hunter Liggett Tule Elk Hunt be issued to persons drawn in 2001 but who were unable to participate when the hunt was cancelled. The Fish and Game Commission may prescribe terms and conditions under which elk license tags are issued.

Based on public input, the initial proposal has been modified so that successful applicants for the 2001 Fort Hunter Liggett Tule Elk Hunt, who

were denied an opportunity to hunt when the hunt was cancelled, can be issued tags for this hunt in 2002. Quotas for this hunt remain unchanged from 2001, and a sufficient list of alternates is available to ensure that the 2002 hunt is fully subscribed. This change is based on public recommendations and removes Fort Hunter Liggett Tule Elk tags from the public drawing for 2002.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 203, 332, 1050, and 1572, Fish and Game Code.

Reference: Sections 203, 203.1, 332, 713, 1050, 1572, and 3951 Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change: None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Draft Environmental Document Regarding Elk Hunting.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

Although the proposed changes are relatively simple, the Department held four public meetings regarding the proposed changes as follows:

November 7, 2001 in Fresno
November 13, 2001 in San Diego
November 29, 2001 in Monterey
December 13, 2001 in Sacramento

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

1. Tag Quotas

No reasonable alternatives were identified. Elk license tag quotas must be changed periodically in response to a variety of biological conditions. Additionally, increasing the number of recreational opportunities involving elk is warranted when this is consistent with growing elk populations. Greater tag quotas were considered, but appear to be unreasonable and inconsistent with elk management objectives. Currently, additional increases in tag quotas do not appear to be compatible with population conditions of the subject herds.

2. Expand the Shasta Boundaries and Rename as Northeastern California Rocky Mountain Elk Hunt, with Archery Only and General seasons

An alternative to further expand the hunt boundary south of Highway 299 in Shasta County was considered. This alternative was rejected because only a small number of elk inhabit the subject area. The proposed change significantly expands the geographic area over which elk hunting can occur and facilitates increasing the number of recreational opportunities associated with this hunt. Additional geographic expansion currently is unwarranted.

3. Marble Mountains Boundary Expansion

An alternative to expand the hunt boundary further south than the current proposal was considered. Specifically, this alternative would have extended the boundary to include an area from the intersection of Highway 299 and Highway 3, south on Highway 3 to Browns Creek Road (also known as Deer Lick Springs Road); south on Browns Creek Road to the Trinity-Shasta County line, and north on the Trinity-Shasta County line to Highway 299. This alternative was rejected because a relatively low number of elk are known to occupy this area. Hunting that portion of the population is premature until further surveys are conducted and their results analyzed.

4. Big Lagoon Boundary Expansion

The alternative of reducing the area encompassed by the Big Lagoon Roosevelt Elk Hunt was considered and rejected. This alternative was not compatible with the objective of providing additional recreational opportunities consistent with expansion of the Roosevelt elk population in and near the hunt area.

5. Owens Valley Archery Only Hunt Period

Issuing archery tags and allowing archers to hunt during the existing hunt periods was considered and rejected as an alternative. Existing regulations in Section 353 indicate that specific archery equipment may be used to take elk. However, based on public input from archers, an archery only hunt period and/or area is desired where hunters may not use rifles, muzzleloaders or pistols.

Alternatives may exist for a later or earlier archery only hunt period in the Owens Valley. The Department will continue to evaluate

alternatives and review public comments regarding timing of an archery only hunt period for the Owens Valley.

6. Tag Application and Distribution Procedures, Tagging and Reporting Requirements

No alternatives were identified to establishing Section 708(d), specifying elk tag application and distribution procedures and tagging and reporting requirements. No other alternatives would simplify existing regulations and place the tag application and distribution procedures and conditions for all big game species in one Section.

No alternatives to adjusting application and tag fees were identified because the Fish and Game Code requires adjustment of such fees according to change in the cost of living index.

7. Editorial Changes

No alternatives were identified.

8. Distribution of Tags for the 2002 Fort Hunter Liggett Tule Elk Hunt

The proposed change is based on public recommendations and specifies that tags for the 2002 Fort Hunter Liggett Tule Elk Hunt will be issued to persons drawn in 2001 but who were unable to hunt because the hunt was cancelled. Not implementing the proposed change was considered and rejected because it constitutes an inappropriate response to a valid public recommendation.

(b) No Change Alternative:

1. Tag Quotas

The no change alternative was considered and rejected because it would not attain objectives of optimizing hunting opportunities consistent with the achievement or maintenance of herd management objectives. The no change alternative would not allow for adjustment of tag quotas in response to changing environmental/biological conditions, or to improve hunt quality.

2. Expand the Shasta Boundaries and Rename as Northeastern California Rocky Mountain Elk Hunt, with Archery Only and General seasons

Under the no change alternative, successful tag applicants would continue to hunt within the current hunt boundary in Shasta County. The number of license tags for this hunt could not be increased and

archery-only tags could not be offered, because expansion of the hunt boundary would not occur under the no change alternative. This alternative was rejected because it would unnecessarily restrict public hunting opportunity made available as a result of expansion of elk populations into areas adjacent to the current hunt boundary.

3. Marble Mountains Boundary Expansion

Under the no change alternative, successful tag applicants would continue to hunt within the current hunt boundary in Siskiyou County, and the tag quota would remain unchanged. This alternative was rejected because it would unnecessarily restrict public hunting opportunity made available as a result of expansion of elk populations into areas adjacent to the current hunt boundary.

4. Big Lagoon Boundary Expansion

Under the no change alternative, successful tag applicants would continue to hunt within the current hunt boundary in Humboldt County. This alternative was rejected because it would unnecessarily restrict public hunting opportunity made available as a result of expansion of elk into areas adjacent to the current hunt boundary. Additionally, the no change alternative is inconsistent with the private landowner's desire to expand hunting opportunity on suitable private land.

5. Owens Valley Archery Only Hunt Period

Under the no change alternative, a hunt period exclusively for archers would not be proposed for the Owens Valley. Public input from archers indicates an archery only hunt period and/or area is desired where rifles, muzzleloaders or pistols may not be used. The no change alternative is not recommended because it fails to provide archers with sufficient opportunities for exclusive elk hunts within the State.

6. Tag Application and Distribution Procedures, Tagging and Reporting Requirements

The no change alternative regarding establishing Section 708(d) specifying elk tag application and distribution procedures and reporting requirements was considered and rejected. The proposed change removes these procedures from existing regulations and establishes Section 708 where tag application and distribution procedures are specified for all big game species. The no change alternative would not allow the flexibility to modify administrative and procedural regulation changes that would be necessary to adapt to implementation of ALDS or a change in big game draw methods and distribution procedures.

The no change alternative for adjusting the price of elk license tags was considered and rejected. Statutory language provides for the elk tag and application fees to increase according to a cost of living index. The no change alternative would be contrary to the intent of this statute.

7. Editorial Changes

The no change alternative was considered and rejected because it would not result in accurate regulations.

8. Distribution of Tags for the 2002 Fort Hunter Liggett Tule Elk Hunt

Under the no change alternative, tagholders for the 2002 Fort Hunter Liggett Tule Elk Hunt would be determined by random drawing from qualified applicants. The no change alternative was considered and rejected because it would not allow the Department and the Commission to incorporate valid public recommendations. The proposed change, based on public recommendations, specifies that tags for the 2002 Fort Hunter Liggett Tule Elk Hunt will be issued to persons drawn in 2001 but who were unable to hunt because the hunt was cancelled.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

The statement described pursuant to Section 11346.14(b), Government Code, may be modified by information received at public meetings scheduled for March 8, 2002, in San Diego, California, and April 5, 2002, in Long Beach, California.

V. Mitigation Measures Required by Regulatory Action:

Attached are copies of the Draft Environmental Document Regarding Elk Hunting.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made.

- (a) The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Given the number of tags available to the public, this proposed change is minor in scope and economically neutral.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Costs Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

UPDATED INFORMATIVE DIGEST (Policy Statement Overview)

Existing regulations provide elk license tag quotas for each hunt. The proposal changes license tag quotas for specific hunts and will: Increase the Shasta quota from one bull and four antlerless tags to five either-sex archery only tags and 10 either-sex general season tags; increase the Marble Mountains quota from 30 either-sex tags to 40 either-sex tags; change the Big Lagoon quota from 25 either-sex tags to 12 bull tags and 13 antlerless tags; change the Klamath quota from 30 either-sex tags to 15 bull tags and 15 antlerless tags; provide five either-sex archery only tags valid for established zones in the Owens Valley; and reduce the total bull tag quota for the Tinemaha zone from 10 to 6.

Existing regulations specify boundaries for the Shasta Rocky Mountain Elk Hunt. The proposed change significantly expands the current hunt zone from Shasta County to include portions of Modoc, Lassen and eastern Siskiyou counties, so that additional recreational opportunities can be provided consistent with the expansion of elk populations in and near the current hunt area. The hunt is renamed the Northeastern California Rocky Mountain Elk Hunt to reflect the major expansion of hunt zone boundaries.

Existing regulations specify the boundary for the Marble Mountains Roosevelt Elk Hunt, which occurs within a portion of western Siskiyou County. The proposed change expands the boundary for this hunt to include portions of Humboldt, Trinity and Shasta counties so that additional recreational opportunities can be provided consistent with the expansion of elk populations in and near the current hunt area.

Existing regulations specify the boundary for the Big Lagoon Roosevelt Elk Hunt. The proposed change expands the boundary of the Big Lagoon Roosevelt Elk Hunt within Humboldt County. A major private landowner within the hunt boundary (Simpson Timber Company) has requested that this boundary be expanded to allow hunters additional opportunity to hunt elk on their land.

Existing regulations specify boundaries and season dates for elk hunts within the Owens Valley, but do not provide an exclusive opportunity for archers to hunt elk. The proposed change establishes a nine day, archery only hunt period for existing zones in the Owens Valley beginning on the second Saturday in August. Under the proposed change, archery only tags are not valid during any other period, and no other tags are valid during the archery only period for the Owens Valley.

Existing regulations specify elk tag application and distribution procedures, including qualifying conditions and drawing details. The proposed change establishes new Subsection 708(d) and removes specific tag application and distribution procedures and tagging and reporting requirements from existing regulations by placing them in that new Subsection.

Existing regulations require a \$6.50 nonrefundable application fee and an \$277.50 resident license tag fee for hunting elk. The proposed change increases the application fee to \$6.75 (for a single application; \$13.50 for a two-party application) and the resident license tag fee to \$286.75, to reflect the cost of living increase as specified in Section 713 of the Fish and Game Code.

Editorial changes are also proposed to improve the clarity and consistency of the regulations. Reference to trespassing is deleted from this Section to reduce redundancy, since trespassing already is prohibited by Fish and Game Code sections 2016 and 2017.

Based on public input, the initial proposal has been modified so that successful applicants for the 2001 Fort Hunter Liggett Tule Elk Hunt, who were denied an opportunity to hunt when the hunt was cancelled, can be issued tags for this hunt in 2002. Quotas for this hunt remain unchanged from their 2001 levels and a sufficient list of 2001 alternates is available to ensure that the 2002 hunt is fully subscribed. This change will essentially remove Fort Hunter Liggett Tule Elk tags from the public drawing for 2002.